

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Catherine McCaw	Team: Team # 4	CCRB Case #: 200406375	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/01/2004 12:50 AM	Location of Incident: I/F/O 48-48 58th Place, Woodside NY	Precinct: 108	18 Mo. SOL 1/1/2006	EO SOL 1/1/2006	
Date/Time CV Reported Thu, 07/01/2004 3:59 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/01/2004 3:59 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM James Lee	20964	930421	108th Precinct
2. SGT Dwayne Palmer	89581	895819	108 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Dwayne Palmer	Abuse: Sgt. Dwayne Palmer stopped and questioned § 87(2)(b)	
B.SGT Dwayne Palmer	Abuse: Sgt. Dwayne Palmer threatened to arrest § 87(2)(b)	
C.SGT Dwayne Palmer	Abuse: Sgt. Dwayne Palmer refused to provide his name and shield number to § 87(2)(b) § 87(2)(b)	
D.POM James Lee	Abuse: PO James Lee refused to provide his name and shield number to § 87(2)(b) § 87(2)(b)	

Synopsis

On July 1, 2004, at approximately 12:30 AM, § 87(2)(b) arrived at his home in Queens, 48-48 58th Place, on his motorcycle. In order to park his motorcycle in his garage, § 87(2)(b) moved his car onto his driveway, though his car was slightly on the sidewalk. § 87(2)(b) removed a red dome light from his car and began to carry it back to his garage. As he was doing so, Sgt. Dwayne Palmer and PO James Lee approached § 87(2)(b) and Sgt. Palmer began asking him questions about the light (Allegation A). § 87(2)(b) flashed an ID card that identified him as working for an ambulette company, and Sgt. Palmer told him that he could be arrested for impersonation of an EMS worker (Allegation B). Sgt. Palmer asked for § 87(2)(b)'s paperwork, and § 87(2)(b) began to argue about whether he had to turn it over. Sgt. Palmer told him he could be arrested if he did not. Sgt. Palmer returned to his and PO Lee's patrol car and instructed PO Lee to write up the summonses. While PO Lee was writing up the summonses, § 87(2)(b) moved his car into his garage. Sgt. Palmer instructed § 87(2)(b) to let him into the garage to look at § 87(2)(b)'s registration sticker. § 87(2)(b) asked what would happen if he refused to allow Sgt. Palmer inside, and Sgt. Palmer informed him that he could be arrested. Sgt. Palmer looked in the garage and obtained the number. As PO Lee and Sgt. Palmer were leaving, § 87(2)(b) asked for their names and shield numbers. § 87(2)(b) asked them to wait a minute, and he went to look for a pen. When he came outside, he found that both officers were gone, and he was unable to obtain their name and shield information (Allegations C-D).

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) filed a complaint with the CCRB on July 1, 2005. He gave a statement at the CCRB on August 23, 2004. His statements were generally consistent except where noted.

On July 1, 2004, at approximately 12:30 AM, § 87(2)(b) returned to his home § 87(2)(b) place in Queens on a motorcycle. In order to get his motorcycle into the garage, § 87(2)(b) drove his car into his driveway, though he conceded that part of the car was on the sidewalk. He went into his car and removed a red dome light from his car to put it in his garage. As he was carrying it back to his house, a police car pulled up with two officers inside. The dome light was not on when the officers pulled up.

Two officers, PO James Lee and Sgt. Dwayne Palmer, emerged from the car and approached § 87(2)(b). § 87(2)(b) volunteered that he had the light for his job as an Emergency Medical Technician. Sgt. Palmer told him he could not be in possession of the dome light because he was not working with Emergency Medical Services, and he further told § 87(2)(b) that he could be arrested for impersonation. Sgt. Palmer asked for § 87(2)(b)'s paperwork, and § 87(2)(b) began to protest. Sgt. Palmer told him that he could be arrested if he refused to provide his paperwork.

§ 87(2)(b) decided to move his car into the garage lest he get additional summonses. The officers went back to their car, and while they were there, § 87(2)(b) called the 108th Precinct stationhouse and spoke with a PO Rodriguez about what he should do about the summonses. He was advised to do what the officers told him and later plead "not guilty" to the summonses. The officers returned to § 87(2)(b)'s driveway, and Sgt. Palmer instructed § 87(2)(b) to allow him to enter the garage because he needed to look at something on § 87(2)(b)'s car. § 87(2)(b) began to argue, and Sgt. Palmer told him, "Either you let me look at your car, or I lock you up right now." § 87(2)(b) allowed Sgt. Palmer into the garage, and both he and PO Lee began to look around the garage before turning their attention to the car.

At the end of the encounter, § 87(2)(b) asked Sgt. Palmer for his name and shield number. Sgt. Palmer replied that he could come and read it off of his nameplate. § 87(2)(b) asked him to wait a minute, and he went in his garage to look for a pen. When he went outside again, both officers were gone.

§ 87(2)(b) received two summonses as a result of the encounter: (1) possession of an unauthorized red light and (2) blocking the sidewalk. He stated that his sister witnessed part of the incident. At the time of his interview, § 87(2)(b) was in possession of an ambulette service ID for § 87(2)(b).

Results of Investigation

Civilian Statements

§ 87(2)(b) stated that his sister, § 87(2)(b) witnessed the incident. Because the officers adequately explained their conduct during their encounter with § 87(2)(b), it was unlikely that § 87(2)(b)'s statement would affect the recommended outcome of this investigation, so her statement was not obtained.

Officer Identification

§ 87(2)(b) knew PO James Lee from an earlier encounter and knew his name. PO Lee affirmed his participation in the incident during his CCRB interview, and he identified Sgt. Dwayne Palmer as his partner on the date of the incident.

Officer Statements

Sgt. Dwayne Palmer

Sgt. Dwayne Palmer was working a 5:15 PM to 2:15 AM tour, starting on June 30, 2004 and ending on July 1, 2004. He was dressed in uniform and working with PO James Lee. Both were assigned to precinct conditions, looking for the source of several noise complaints in the area.

At approximately 12:30 AM, PO James Lee was driving their patrol car, and he turned onto 58th Place. Sgt. Palmer observed a flashing red light and noticed that the red light was emanating from a car parked on the sidewalk. As Sgt. Palmer and PO Lee approached the vehicle, they came upon § 87(2)(b). Sgt. Palmer asked § 87(2)(b) why he had a flashing red light, and § 87(2)(b) responded that he was “on the job,” and quickly flashed a badge in his wallet. Sgt. Palmer asked to see it, and closer inspection revealed that § 87(2)(b) had flashed identification for an ambulette service. Sgt. Palmer informed § 87(2)(b) that it was illegal for him to be in possession of a dome light unless he was an EMT.

Sgt. Palmer returned to his vehicle, and PO Lee wrote up a summons for the dome light and a parking violation summons for parking a car on the sidewalk. Upon returning to § 87(2)(b)'s driveway, Sgt. Palmer found that § 87(2)(b) had driven his car into his garage. Sgt. Palmer needed to look at § 87(2)(b)'s windshield to verify a digit on § 87(2)(b)'s registration sticker. He asked to gain entry to the garage, and § 87(2)(b) asked what would happen to him if he did not allow Sgt. Palmer inside. Sgt. Palmer replied that, § 87(2)(b) could either let him in or not let him in.” Sgt. Palmer did not threaten to arrest § 87(2)(b) to let him into the garage, and he read the digit back to PO Lee. Sgt. Palmer looked nowhere but § 87(2)(b)'s windshield, and PO Lee did not enter § 87(2)(b)'s garage at all.

Sgt. Palmer only discussed arresting § 87(2)(b) when § 87(2)(b) asked what would happen if he did not pay the summonses. Sgt. Palmer stated that if he failed to pay the summonses, a warrant would be issued for § 87(2)(b)'s arrest. § 87(2)(b) asked for his and PO Lee's names and shield numbers, and they verbally provided them. He did not recall § 87(2)(b) going into his garage to get a pen.

PO James Lee

PO § 87(2) Lee's statement was largely consistent with Sgt. Palmer's. He stated, however, that the subject of arrest did come up in conjunction with § 87(2)(b)'s use of his ambulette identification to justify his possession of a dome light. According to PO Lee, Sgt. Palmer told § 87(2)(b) that he could be arrested for impersonation of an EMT. Sgt. Palmer did not inform § 87(2)(b) that he might be arrested at any other point during the encounter.

Officer and Civilian Histories

§ 87(2)(b) has not been convicted of any crimes since the beginning of 1996. Neither PO Lee nor Sgt. Palmer has had an substantiated CCRB allegations.

Conclusions and Recommendations

Disputed and Undisputed Facts

It is not in dispute that § 87(2)(b) was in possession of a dome light and had his car partially parked on the sidewalk when Sgt. Palmer and PO Lee stopped him. Sgt. Palmer informed him that he did not have the proper credentials to possess the dome light and told him he could be arrested for possession of the dome light. While PO Lee was writing up § 87(2)(b)'s summonses, § 87(2)(b) moved his car into his garage, and Sgt. Palmer later attempted to gain access to the garage to look at the car. Toward the end of the encounter, § 87(2)(b) asked for the name and shield numbers of both officers.

§ 87(2)(b), § 87(2)(g)

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Allegation A: Abuse: Sgt. Dwayne Palmer stopped and questioned § 87(2)(b)

According to §375.41 (1) of the Vehicle and Traffic Law of the State of New York (VTL), "No light...shall be affixed to, or displayed on any vehicle except as prescribed herein." In §375.41 (2), the VTL states that, "One or more red or combination red and flashing white lights...may be affixed to an authorized emergency vehicle." The combination of these two sections clearly prohibits non-emergency vehicles from displaying a flashing red light.

§ 87(2)(b) does not dispute that the car parked in his driveway was his own personal car rather than a car used for emergency purposes. § 87(2)(g)

§ 87(2)(b) Sgt. Palmer and PO Lee stated that the dome light was both turned on and located inside of § 87(2)(b) s vehicle. § 87(2)(b), § 87(2)(g)

Allegation B: Abuse: Sgt. Dwayne Palmer threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that Sgt. Palmer made three separate threats to arrest him: after he inspected § 87(2)(b) s ambulette identification card, when § 87(2)(b) refused to produce his paperwork and when § 87(2)(b) asked what would happen if he refused to allow Sgt. Palmer into his garage. Sgt. Palmer seemed generally reluctant to admit that he had threatened § 87(2)(b) at any point during the encounter. PO Lee confirmed that Sgt. Palmer informed § 87(2)(b) that he could be arrested for impersonating an EMS worker after § 87(2)(b) displayed his ambulette identification card. In Sgt. Palmer's assessment, § 87(2)(b) had committed a crime by implying that he was an EMS worker, so this statement was justified.

§ 87(2)(b) also stated that he protested turning over his paperwork to Sgt. Palmer. Neither Sgt. Palmer nor PO Lee confirmed that § 87(2)(b) made this remark or that Sgt. Palmer threatened him after he did so. § 87(2)(b), § 87(2)(g)

Sgt. Palmer stated that § 87(2)(b) asked him what would happen if he refused to allow Sgt. Palmer into his garage. According to Sgt. Palmer, he responded, "You can open the door or you can not open the door." § 87(2)(b), § 87(2)(g)

Allegation C: Abuse: Sgt. Palmer refused to provide his name and shield number to § 87(2)(b)
Allegation D: Abuse: PO James Lee refused to provide his name and shield number to § 87(2)(b)

Both Sgt. Palmer and PO Lee recalled verbally providing their names and shield numbers to § 87(2)(b) after he requested them. § 87(2)(b), § 87(2)(g)

Allegations not Pleaded

By Sgt. Palmer's own admission, he entered § 87(2)(b) s garage for the purpose of obtaining the check digit on § 87(2)(b) s vehicle. Sgt. Palmer needed to do so solely because § 87(2)(b) prematurely moved his vehicle into his garage, so, per supervisory conferral, no allegation of entry and search was pleaded against Sgt. Palmer.

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: